

**State of Maine  
Office of Securities  
121 State House Station  
Augusta, Maine 04333-0121**

**IN RE:**

**DEBT FREE ORGANIC  
FOUNDATION AND  
PENNY GABARDI AND JULIE  
JACOBS**

**ORDER  
CASE NO. 07-052**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Debt Free Organic Foundation (“the Foundation”) is purportedly a private foundation with a place of business at 466 E. Camden Park Court, Draper, Utah 84020.
2. Penny Gabardi (“Gabardi”) was, at all times relevant hereto, a Senior Coordinator with the Foundation.
3. Julie Jacobs (“Jacobs”) was, at all times relevant hereto, a Coordinator with the Foundation.
4. During the week of February 4, 2007, at least two Maine farmers were solicited by an agent of the Foundation to participate in a conference call about Debt Free Organic, a program sponsored by the Foundation that claims to help reduce or eliminate farm-related debt of up to \$2.5 million.
5. In response to the solicitation described in paragraph 4 above, at least four Maine farmers participated in a conference call on February 13, 2007, in which participants listened to a prerecorded narration about the Debt Free Organic program. Gabardi moderated the conference call and provided introductions to the various segments. Following the conference call, Gabardi and Jacobs communicated with at least two of the Maine farmers via e-mail and attached application information for them to complete. The same two Maine farmers were also mailed a CD containing information about the Debt Free Organic program.

6. On February 15, 2007, the two Maine farmers forwarded an electronic copy of the e-mail from Gabardi and Jacobs to the Maine Office of Consumer Credit Regulation (“CCR”). On or about March 2, 2007, CCR forwarded a hard copy of the e-mail and application information to the Maine Office of Securities (the “Office”). The two Maine farmers subsequently sent the Office Gabardi’s business card, which contained a cell phone number for Gabardi, and a CD containing information about the Debt Free Organic program.
7. On March 6, 2007, an investigator from the Office placed two calls to Gabardi. One call was placed to the general number provided in Gabardi’s February 13, 2007, e-mail and the other call was placed to the cell phone number listed on Gabardi’s business card. Messages were left at both numbers informing Gabardi that the Office had become aware of the Foundation’s activity in Maine with respect to the solicitation of Maine farmers to participate in the Debt Free Organic program. The investigator further stated that the Foundation is offering a security in violation of Maine’s securities laws and that the Foundation must cease all solicitations and activity in Maine until licensed. The investigator also requested that Gabardi contact the Office regarding the Foundation’s activity and that failure to do so could result in the issuance of a Cease and Desist Summary Order. Gabardi failed to contact the Office as requested.
8. Although not a model of clarity, the documents provided to the Maine farmers by the Foundation and reviewed by the Office describe the operation of the Foundation’s Debt Free Organic program as follows:
  - The Foundation purportedly has access to a number of Private Money Trusts “that will assign up to \$2.5 million to each sponsored farmer or rancher to cancel (pay off completely) ag debt existing before May 8, 2006.” A farmer must be sponsored by a Sponsor or Patron to become eligible to participate in the Debt Free Organic program and to receive an assignment of funds.
  - Once sponsored, a farmer must complete a Request for Funds Assignment to ask the Foundation to enter into a contract with the specific Private Money Trusts to request that funds be “assigned” to the farmer’s creditors listed on the application. Farmers are asked to provide a non-refundable donation of up to \$1,000 to offset processing costs of the Request for Funds Assignment. Although technically no purchase or payment is required to participate in the “distribution plan” through which the debt repayments are “assigned,” the Foundation and the Trusts reserve the right to process only those applications that include a donation to offset processing costs.

- A farmer can also become a Sponsor. Sponsors find farmers or ranchers who have existing debt and sponsor them by inviting them to join Debt Free Organic. Non-farm interested people who want to sponsor farmers and ranchers can become Patrons.
  - Sponsors or Patrons are “assigned referral funds” of up to \$100,000, with “\$50,000 assigned for the first farmer/rancher sponsored, \$80,000 for the second farmer/rancher sponsored, and \$100,000 for the third farmer/rancher and each thereafter.” The assignment of referral funds is split equally between the Sponsor/Patron of the farmer/rancher who is being sponsored for the program and that person’s Sponsor/ Patron. The amount of referral funds assigned to a Sponsor/Patron is determined by the amount paid by the farmer or rancher being sponsored or by the Sponsor/Patron on behalf of the farmer or rancher. The Trusts reserve the right to change the amounts of the “distribution plan” and to decline to make assignments in some circumstances.
9. Pursuant to 32 M.R.S.A. §16102 of the Maine Uniform Securities Act, an investment contract is a security. The Foundation’s Debt Free Organic program to reduce farm debt is an investment contract and is, thus, a security. 32 M.R.S.A. §16102.
  10. At no time were the securities offered by the Foundation registered with the Maine Office of Securities. Additionally, the securities were neither exempt from registration nor properly notice-filed federal covered securities.
  11. At all relevant times, it has been unlawful to offer or sell any security in Maine unless the security is registered, exempt from registration, or a federal covered security that complies with applicable notice filing requirements. 32 M.R.S.A. §§16301, 16302.
  12. The Foundation, Gabardi, and Jacobs have offered securities in Maine without the security being registered, exempt from registration, or a federal covered security that is in compliance with applicable notice filing requirements, in violation of 32 M.R.S.A. §§16301 and 16302.
  13. It is unlawful for a person to transact business in Maine as a broker-dealer unless licensed or exempt from licensing. 32 M.R.S.A. §16401.
  14. The Foundation has acted as a broker-dealer in Maine without being licensed or exempt from licensing under the Act by offering the Debt Free Organic program to Maine farmers, in violation of 32 M.R.S.A. §16401.

15. It is unlawful for a broker-dealer or issuer engaged in offering, selling, or purchasing securities in Maine to employ or associate with an agent who transacts business in Maine on behalf of the broker-dealer or issuer unless the agent is licensed or exempt from licensing. 32 M.R.S.A. §16402(4).
16. The Foundation has employed or associated with agents, namely Gabardi and Jacobs, who have transacted business in Maine on behalf of the Foundation and who were not licensed or exempt from licensing, in violation of 32 M.R.S.A. §16402(4).
17. It is unlawful for an individual to transact business in Maine as an agent unless the individual is licensed or exempt from licensing. 32 M.R.S.A. §16402.
18. Gabardi and Jacobs have acted as agents for the Foundation without being licensed or exempt from licensing by soliciting Maine farmers to participate in the Debt Free Organic program, in violation of 32 M.R.S.A. §16402.
19. It is unlawful for a person, in connection with the offer, sale, or purchase of a security, to directly or indirectly:
  - (a) Employ any device, scheme or artifice to defraud;
  - (b) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
  - (c) Engage in any act, practice or course of business which operates or would operate as a deceit upon a person. 32 M.R.S.A. §16501.
20. The Foundation, Gabardi, and Jacobs have made untrue and misleading statements with respect to the amount of income that the Private Money Trusts are capable of generating for fund distributions, in violation of 32 M.R.S.A. §16501.
21. The Foundation has violated at least four provisions of the Maine Uniform Securities Act. 32 M.R.S.A. §§16301, 16401, 16402(4), 16501.
22. Gabardi and Jacobs have violated at least three provisions of the Maine Uniform Securities Act. 32 M.R.S.A. §§16301, 16402, 16501.

## **ORDER**

NOW, THEREFORE, it is ORDERED that:

1. The Foundation, Gabardi, Jacobs, and any other agents of the Foundation CEASE AND DESIST from offering and selling securities in Maine unless the securities are registered, exempt from registration, or federal covered securities that comply with any notice filing requirements;
2. The Foundation Cease and Desist from acting as a broker-deal until licensed;
3. The Foundation Cease and Desist from employing or associating with agents who are not licensed;
4. Gabardi, Jacobs, and any other agents of the Foundation CEASE AND DESIST from acting as agents for the Foundation until licensed; and
5. The Foundation, Gabardi, Jacobs, and any other agents of the Foundation CEASE AND DESIST from, directly or indirectly;
  - (a) Employing any device, scheme or artifice to defraud;
  - (b) Making any untrue statements of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
  - (c) Engaging in any act, practice, or course of business which operates or would operate as a deceit upon a person.

### **NOTICE – INTENT TO IMPOSE CIVIL FINE**

**The Securities Administrator intends to impose a civil fine of \$20,000 on the Foundation and \$15,000 each on Gabardi, and Jacobs when and if this Order becomes final.**

### **NOTICE – RIGHT TO HEARING**

**This Order is effective immediately and will become final, and the civil fine set forth above will be imposed, 30 days after this Order is mailed to Respondents unless, before the 30 days have passed, Respondents submit a written request for a hearing. If Respondents do request a hearing, it will be scheduled within 15 days after receipt of the request.**

Ordered by:

Date: April 13, 2007

s/Stephen J. Diamond  
Stephen J. Diamond  
Acting Securities Administrator

Reviewed by:

Date: April 13, 2007

s/Bonnie E. Russell  
Bonnie E. Russell  
Assistant Securities Administrator

Presented by:

Date: April 13, 2007

s/Cathy J. Williams  
Cathy J. Williams  
Investigator/Examiner